

★ FEB 27 2013 ★

LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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PAMELA ROLLE,

Plaintiff,

-against-

ORDER
11-cv-3855(SJF)(AKT)

EDUCATIONAL BUS TRANSPORTATION, INC.,

Defendant.
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FEUERSTEIN, J.

Pending before the Court is the Report and Recommendation of Magistrate Judge A. Kathleen Tomlinson ("the Report"), dated February 12, 2013, recommending, *inter alia*, that the motion of defendant Educational Bus Transportation, Inc. ("defendant") to dismiss the complaint pursuant to Rules 12(b)(5) and (6) of the Federal Rules of Civil Procedure be granted and that the complaint be dismissed in its entirety without prejudice. No objections have been filed to the Report, although *pro se* plaintiff Pamela Rolle ("plaintiff") filed an "Answer Report and Recommendation," in which she seeks to dismiss the claims in her original complaint and to file an amended complaint "charging the Defendant [with] discrimination and harassment * * * for wrongful termination." For the reasons stated herein, the Report of Magistrate Judge Tomlinson is accepted in its entirety.

I

Rule 72 of the Federal Rules of Civil Procedure permits magistrate judges to conduct proceedings on dispositive pretrial matters without the consent of the parties. Fed. R. Civ. P. 72(b). Any portion of a report and recommendation on dispositive matters, to which a timely

objection has been made, is reviewed *de novo*. 28 U.S.C. § 636(b)(1); Fed.R.Civ.P. 72(b). The court, however, is not required to review the factual findings or legal conclusions of the magistrate judge as to which no proper objections are interposed. See, Thomas v. Arn, 474 U.S. 140, 150, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985). To accept the report and recommendation of a magistrate judge to which no timely objection has been made, the district judge need only be satisfied that there is no clear error apparent on the face of the record. See Fed. R. Civ. P. 72(b); Johnson v. Goord, 487 F.Supp.2d 377, 379 (S.D.N.Y. 2007), aff'd, 305 Fed. Appx. 815 (2d Cir. Jan. 1, 2009); Baptichon v. Nevada State Bank, 304 F.Supp.2d 451, 453 (E.D.N.Y. 2004), aff'd, 125 Fed.Appx. 374 (2d Cir. 2005). Conclusory or general objections are typically reviewed under the “clear error” standard. See, e.g. Patrick Collins, Inc. v. Doe 1, — F.R.D. —, 2012 WL 5879120, at * 3 (E.D.N.Y. Nov. 20, 2012); Menking ex rel. Menking v. Daines, — F.R.D. —, 2012 WL 4328343, at * 1 (S.D.N.Y. Sept. 21, 2012); Williams v. Woodhull Medical and Mental Health Center, — F. Supp. 2d —, 2012 WL 3704746, at * 2 (E.D.N.Y. Aug. 27, 2012).

Whether or not proper objections have been filed, the district judge may, after review, accept, reject, or modify any of the magistrate judge's findings or recommendations. 28 U.S.C. § 636(b)(1); Fed.R.Civ.P. 72(b).

II

No party has filed any objections to Magistrate Judge Tomlinson’s Report. At most, plaintiff’s motion to amend the complaint can only be construed as a general objection to the Report, subject to review under the “clear error” standard. Upon review, the Court is satisfied that the Report is not facially erroneous. Accordingly, the Court accepts Magistrate Judge Tomlinson’s Report as an order of the Court. For the reasons set forth in the Report, defendant’s

motion to dismiss the complaint is granted and the complaint is dismissed in its entirety without prejudice. Plaintiff's application for leave to amend the complaint is granted to the extent that plaintiff may serve and file an amended complaint **on or before April 1, 2013**, or she will be deemed to have waived her right to amend the complaint and the complaint will be deemed dismissed with prejudice.

SO ORDERED.

s/ Sandra J. Feuerstein

SANDRA J. FEUERSTEIN
United States District Judge

Dated: February 27, 2013
Central Islip, New York